

REMARKS

Applicant respectfully requests reconsideration. Claims 1, 3-5, 8-16, 44 and 49-53 were pending in the application. Claims 1, 4, 5, 11, 12, 14, 15, 16, 44, 49 and 50 have been amended. New claim 54 has been added. No new matter has been added. Claims 1, 3-5, 8-16, 44 and 49-54 are pending in this application with claims 1 and 44 being independent.

Rejection of Claims 1, 3-4, 8-16, 44 and 49-53

Claims 1, 3-5, 8-16, 44 and 49-53 were rejected under 35 U.S.C. §102(a) and 102(e) as being anticipated by U.S. Publication No. 2003/0134420A1 (Lollo).

Without conceding to the correctness of the rejection, Applicant has amended independent claims 1 and 44 to include a nanoparticle comprising a polymer having a backbone comprising a polyester. This feature was recited in original claim 15, and is not taught or suggested by Lollo. While Lollo teaches the use of activated esters (e.g., paragraph 64), the activated esters react to form an amide bond and, therefore, do not form a backbone comprising a polyester as recited in amended claims 1 and 44. Furthermore, while several paragraphs teach the use of esters as penetration enhancers (e.g., paragraphs 106 and 168) and pharmaceutically acceptable carriers (e.g., paragraph 133), these esters are not in the form of a polyester and are not a part of a polymeric backbone. Additionally, the use of poly(orthoesters) (e.g., paragraph 155) is only in the context of a matrix to encapsulate the subject compounds (e.g., the polyplexes). Thus, Lollo does not teach or suggest a nanoparticle forming a micelle, wherein the nanoparticle comprises a polymer having a backbone comprising a polyester, as recited in claims 1 and 44.

Because Lollo fails to teach or suggest each claim feature, claims 1 and 44 are patentable over Lollo. The remaining pending claims that stand rejected on this ground each depend from claims 1 and 44 and are also believed to be patentable in view of Lollo for at least these reasons.

Accordingly, Applicant respectfully requests withdrawal of the claim rejections on this ground.

Objection of Claims 4 and 5

Claims 4 and 5 were objected to for missing periods. Claims 4 and 5 have been amended, as suggested by the Office Action.

Accordingly, Applicant respectfully requests withdrawal of the claim rejections on this ground.

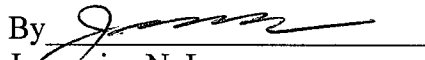
New Claim

New claim 54 depends from claim 1 which is patentable over the cited reference for the reasons noted above. Therefore, claim 54 is patentable for at least these reasons. No new matter has been added.

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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